



Fair Political Practices Commission

428 J Street, Suite 620, Sacramento, CA 95814

www.fppc.ca.gov



NEWS ADVISORY

For Immediate Release:
April 25, 2003

Contact: Sigrid Bathen
(916) 322-7761

Judge grants Santa Rosa tribe's motion to dismiss FPPC suit

Sacramento Superior Court Judge Joe S. Gray yesterday (April 24) granted a motion by the Santa Rosa Indian Community and Palace Indian Gaming Center – based in Kings County, Calif. – to dismiss a lawsuit filed by the Fair Political Practices Commission against the tribe for violations of campaign disclosure provisions of the Political Reform Act.

This is the second Sacramento Superior Court ruling in an FPPC tribal gaming suit. The first, issued Jan. 27 by Judge Loren McMaster, dismissed a similar motion by the Agua Caliente Band of Cahuilla Indians, saying the FPPC does have enforcement authority over Indian tribes. Yesterday (April 24), the 3rd District Court of Appeal ruled against the tribe, denying an appeal by the Agua tribe and returning the case to the trial court.

Both tribes claim they are immune from disclosure because of tribal sovereignty.

In a 14-page ruling, Judge Gray said the court “rejects the FPPC’s contentions and finds that this action against the Tachi Tribe (the Santa Rosa Rancheria Tachi Yokuat Tribe) is barred by common law doctrine of tribal immunity from suit.” A copy of the ruling is available on the FPPC Web site at www.fppc.ca.gov Legal documents in both the Santa Rosa and Agua cases can be found under “litigation” on the home page of the Web site.

“I am very disappointed by the court’s decision,” FPPC Chairman Liane Randolph said of Gray’s ruling. “Unlike other sovereign nations, tribes have the legal right to make political contributions. With that right should come the responsibility to make the same disclosures that all other participants in the political process provide to the public.”

Steve Russo, chief of the FPPC’s Enforcement Division, said it is “very unfortunate that the judge did not give as much weight to the sovereign interests of California’s citizens in this case as was given to their interests in the Agua Caliente ruling.” He said he believes that the FPPC “will have a strong legal position if the commission chooses to appeal, particularly in light of the Agua Caliente ruling and the recent denial of Agua’s challenge to that ruling in the Court of Appeal.” The five-member commission must decide whether to file an appeal with the 3rd District Court of Appeal in Sacramento within the next 60 days.

-more-

Noting that “recent requests to narrow the expansive scope of tribal immunity have been wholly rejected by the United States Supreme Court,” Judge Gray also said that the tribe is “presumptively immune” from the FPPC suit. “As a federally recognized political entity,” he said, “the Tachi Tribe is a sovereign distinct from and beyond the jurisdiction of the State except to the extent permitted by federal law.”

Gray said the state “could pursue, singly or in conjunction with other States, congressional enactments that would define the scope of state authority to impose laws like the [Political Reform Act] upon Indian tribes and to enforce such laws against the tribes in civil actions.” He said Congress “has enacted similar legislation over the years with respect to a variety of areas of overlapping and conflicting state and tribal jurisdictions and interests.”

The FPPC filed a civil lawsuit against the tribe in Sacramento Superior Court last July 31. The suit was amended in October 2002, adding allegations that the tribe and its Palace Indian Gaming Center and Palace Bingo operation failed to file any semi-annual campaign reports for a period of approximately four years – during which time they made contributions of more than \$525,000 to California candidates and political committees.

Although its first campaign report was due July 31, 1998, the tribe did not file any semi-annual major-donor report disclosing its contributions until late 2002.

The suit also alleged that the Santa Rosa Rancheria failed to timely file late contribution reports disclosing two late contributions totaling \$360,000, in October 1998. One of the late contributions, for \$250,000, was made to the “Yes on Proposition 5, Californians for Indian Self-Reliance” committee in connection with the November 1998 election.

Most FPPC enforcement cases are handled administratively with stipulated agreements. The agency is also empowered to file civil lawsuits, as it did in this case.

In its Feb. 10 response to the tribe’s Jan. 17 motion to dismiss (both are available on the Web site), the FPPC contended, “The paramount interest here is that of the state in protecting the integrity of its governmental processes – a fundamental right of state sovereignty protected by Art. IV, sec 4 through the 10th Amendment [of the U.S. Constitution].”

The response included declarations in support of the FPPC position from numerous state officials, public interest groups, and officials in other states. The tribal sovereignty issues were argued for the FPPC at a March 6 hearing before Judge Gray by Sacramento attorney Charity Kenyon of the firm of Reigels Campos & Kenyon LLP. She was assisted by FPPC Enforcement Division Chief Steve Russo, General Counsel Luisa Menchaca and staff counsel William L. Williams and Holly B. Armstrong.

###